

REMARKS:

Applicant has carefully studied the Non-Final Examiner's Action and all references cited therein. The amendment appearing above and these explanatory remarks are believed to be fully responsive to the Action. Accordingly, this important patent application is now believed to be in condition for allowance.

Applicant responds to the outstanding Action by centered headings that correspond to the centered headings employed by the Office, to ensure full response on the merits to each finding of the Office.

Claim Rejection 35 U.S.C. 102(a)

Claims 1-4, 7, 9 and 12 stand rejected under 35 U.S.C. 102(b) as being anticipated by Nardella (U.S. Patent No. 5,341,807).

The Office states that Nardella discloses in Figure 1, a device comprising a generally cylindrical non-conducting core post (8); at least three discrete electrode rings (13) axially spaced apart along the post each being in independent circuit communication with a respective portion of a source of electrical energy (30) and thus being fully capable of establishing a first electromagnetic field to cause electromigration and a second field to cause transient permeability; with the insulating portion of the catheter (8) interposed between the electrodes.

Claim Rejection 35 U.S.C. 103(a)

Claims 9-11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Nardella (U.S. Patent No. 5,341,807) as modified by Nardella (U.S. Patent No. 5,334,193).

The Office states that Nardella '807 discloses the claimed invention except for the device having a lumen extending therethrough. The Office goes on to states that Nardella '193 discloses in Figure 2 that it is known to use a lumen in a catheter ablation system. The Office concludes that it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device or Nardella '807 with the teaching of Nardella '193

since such a modification would provide for a way to introduce fluid into the device during operation and into the tissue in order to cool it and prevent damage to the body.

Allowable Subject Matter

The Office states that claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Independent claim 1 has been amended to incorporate the elements of claim 5 that have been deemed allowable by the Office. Accordingly, independent claim 1 is now believed to be in condition for allowance.

Claim 5 has been canceled by amendment.

Claims 2-4 and 6-11 are dependent upon claim 1, which has been shown to be allowable and are therefore allowable as a matter of law.

If the Office is not fully persuaded as to the merits of Applicant's position, or if an Examiner's Amendment would place the pending claims in condition for allowance, a telephone call to the undersigned at (813) 925-8505 is requested.

Very respectfully,

SMITH & HOPEN



By: _____

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Dated: September 16, 2009

CERTIFICATE OF ELECTRONIC TRANSMISSION
(37 C.F.R. 1.8 (a))

I HEREBY CERTIFY that this correspondence is being electronically transmitted to the Patent and Trademark Office through EFS Web on September 16, 2009.

Date: September 16, 2009

/jessica thompson/
Jessica Thompson